MATTER OF QUINTANILLA-MONTES

In Exclusion Proceedings

A-18464888

Decided by Board March 20, 1970

"Sunday marching" and drill for about an hour in Mexico under the direction of a soldier from the regular Mexican Army, over a period of approximately a year, during which no rank was held, no firearms were issued nor instructions given in the use of weapons, no uniforms, pay nor allowances of any nature were received, and no food, transportation nor medical services were furnished, did not constitute service in the armed forces of a foreign state so as to expatriate under section 349(a)(3) of the Immigration and Nationality Act.

EXCLUDABLE: Act of 1952—Section 212(a)(20) [8 U.S.C. 1182(a)(20)]—Immigrant—no immigrant visa.

The special inquiry officer, at the request of the Immigration and Naturalization service, has certified to us for final decision his order in these exclusion proceedings that the applicant be admitted to the United States as a citizen thereof. The question decided by him was whether the applicant was a United States citizen or whether he was an immigrant not in possession of an immigrant visa and thus excludable under section 212(a)(20) of the Immigration and Nationality Act.

The applicant is a 33-year-old married male who was born in Laredo, Texas to a Mexican citizen father and a United States citizen mother. Under these circumstances he acquired at birth dual citizenship of the United States and Mexico.[1] At the age of three he was taken to Mexico by his parents and resided there ever since with the exception of several one day visits when he was seven or eight years old and again when he came to the United States in 1968 for two months, entering as a visitor for pleasure.

On November 21, 1968 the applicant applied for admission to

[1] Section 301(a), I. & N. Act (8 U.S.C. 1401(a)); Article 30 (as amended in 1934) of the Mexican Constitution of 1917 (Ex. 3).